THE HON'BLE SRI JUSTICE C.V. RAMULU

Thursday, the 14th day of June,2007

W.P.Nos.23866 of 2001 and 5722 of 2001

W.P.No.23866 of 2001

Between:-

Md. Nayeemulla khan & others … Petitioners

and

The Management of Praga
Tools Limited, rep. by its
Managing Director, Kavadiguda,
Secunderabad and another …
Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.Nos.23866 of 2001 and 5722 of 2001

COMMON ORDER:

In these two Writ Petitions common questions of law and fact arise for consideration; therefore, they are being disposed of by this common Order.

The question that falls for consideration is whether the termination of the services of the petitioners with effect from 1-11-2001 by the respondent-Praga Tools Limited is justified and is not in violation of the provisions of Section 33(1)(a) of the Industrial Disputes Act,1947 (for short 'the Act') ?

The facts are not much in dispute. Petitioners in both the Writ Petitions were working in Praga Tools Limited as daily wage/casual workers for the last more than 15 years (as on the date of filing Writ Petition) with intermittent/artificial breaks. Since the petitioners and other similarly situated persons were working for more than 15 years on casual basis, they formed into a Union and the Union has demanded and raised a dispute for regularization of their services and the matter was referred to the Conciliation Officer and in turn, the Government referred the matter to the Industrial Tribunal-I, Hyderabad for adjudication of the issue as to whether the members of the Union are entitled for regularization of their services, which was numbered as I.D.10 of 2000. Petitioners are, admittedly, members of the said Union. During the pendency of the above dispute, the respondent-Management has terminated the services of the petitioners with effect

from 1-11-2001. According to the petitioners herein, the Management has not obtained prior permission as required under Section 33(1) of the Act. Therefore, the termination of the petitioners with effect from 1-11-2001 is arbitrary and illegal.

Whereas, Ms. G.Sudha, learned counsel for the respondents, strenuously contended that, may be, the Management has not obtained any permission to terminate the services of the petitioners herein with effect from 1-11-2001, but that does not mean that they can approach this Court directly by way of filing a Writ Petition under Article 226 of the Constitution of India. In fact, in the Industrial Disputes Act itself, a mechanism is provided and the petitioner-workmen are entitled to make a complaint under Section 33-A of the Act before the Authority before whom the main I.D. was pending. Instead of doing that, they have approached this Court directly. As such, the very Writ Petition is not maintainable.

Be that as it may, during the pendency of these Writ Petitions, the very I.D.10 of 2000 was disposed of by an Award dated 30-12-2003 rejecting the claim of the casual workers' union, to which the petitioners herein are also members, for regularization of their services. Aggrieved by the same, the union has filed a Writ Petition being W.P.No.20241 of 2005, which is dismissed by this Court, just now.

Thus, the question arises is as to whether the petitioners should be relegated to the Industrial Tribunal for raising such a dispute or a complaint as required under Section 33-A of the Act. In the facts and circumstances of the case, such a course cannot be adopted, since the main dispute in I.D.No.10 of 2000 was already disposed of. But, since it is an admitted fact that the Management has not taken any prior permission before terminating the services of the petitioners with effect

from 1-11-2001, to meet the ends of justice, I deem it appropriate to direct the respondents to engage the petitioners on casual basis, as they were being engaged prior to their termination on 1-11-2001, in the respondent-company along with other members of the Union and may also consider for regularization of their services on par with others, if any Scheme is evolved by the Company as per the suggestions made by this Court in Writ Petition No.20241 of 2005.

With the above directions, both the Writ Petitions are disposed of. No order as to costs.

14-6-2007

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